

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA STATE POLICE INVOICE**

A CERTIFIED BANK CHECK OR MONEY ORDER SHOULD BE MADE PAYABLE TO,
"COMMONWEALTH OF PENNSYLVANIA" AND MAILED TO:

PENNSYLVANIA STATE POLICE
BUREAU OF RECORDS & IDENTIFICATION
RIGHT-TO-KNOW OFFICE
1800 ELMERTON AVENUE
HARRISBURG, PENNSYLVANIA 17110

DATE: JUNE 10, 2011

PSP/RTK FILE N°2011-0202

BILLED TO: DIANA LOPEZ, SENIOR EDITOR
SUNSHINE REVIEW
1734 SAVANNAH COURT
AURORA, ILLINOIS 60502

TO ENSURE PROPER CREDIT TO YOUR ACCOUNT,
PLEASE RETURN ONE COPY WITH YOUR REMITTANCE. THANK YOU.

FOR STATE USE ONLY

<u>DATE</u>	<u>ITEM AND DESCRIPTION</u>	<u>QUANTITY</u>	<u>UNIT COST</u>	<u>AMOUNT</u>
06/10/2011	RE: PHOTOCOPIES OF GRANTED PUBLIC RECORDS			
	RECORDS OF SALARIES:			
	PSP/RTKL.000001 – PSP/RTKL.000395	395	\$0.25	\$98.75
	RECORDS OF POLICY FOR CELL PHONES:			
	PSP/RTKL.000396 – PSP/RTKL.000401	6	\$0.25	\$1.50
	RECORDS OF POLICY FOR VEHICLES & MILEAGE:			
	PSP/RTKL.000402 – PSP/RTKL.000439	38	\$0.25	\$9.50
	POSTAGE (PRIORITY MAIL FLAT-RATE ENVELOPE):			\$4.90
	*** TOTAL ***	439	\$0.25	\$114.65

I CERTIFY THE ABOVE EXPENSES, SERVICES, MATERIALS OR PRODUCTS WERE ACTUALLY INCURRED
OR FURNISHED BY THE COMMONWEALTH OF PENNSYLVANIA, AND THE ABOVE COSTS CHARGED WERE
FAIR AND REASONABLE, IN ACCORDANCE WITH 65 P.S. § 67.1307 UNDER THE RTKL.



JONATHAN W. LEADER
DEPUTY AGENCY OPEN RECORDS OFFICER
PENNSYLVANIA STATE POLICE



**Pennsylvania State Police
Bureau of Records & Identification
RIGHT-TO-KNOW OFFICE
1800 Elmerton Avenue
Harrisburg, Pennsylvania 17110**

Mailing Date: June 10, 2011

SENT VIA ELECTRONIC TRANSMISSION & U.S. POSTAL SERVICE

Diana Lopez, Senior Editor
Sunshine Review

dlopez@sunshinereview.org

PSP/RTK Request N° 2011-0202

Dear Miss Lopez:

On May 9, 2011, the Pennsylvania State Police (PSP) received your request for records pursuant to Pennsylvania's Right-to-Know Law (RTKL), 65 P.S. §§ 67.101-67.3104, wherein you asked for:

- 1) Records of all salaries more than \$50k from January 1, 2008, to January 1, 2011;
- 2) Records of salaries from January 1, 2008, to January 1, 2011, for: Captain; Captain Detective; Deputy Superintendent; Superintendent; Superintendent in Chief; and Commissioner;
- 3) Benefits information, in dollars, for items 1) and 2) above;
- 4) Overtime paid to personnel who retired January 1, 2008, to January 1, 2011. For example, if John Smith retired January 1, 2008, how much overtime was he paid in 2008?;
- 5) Number of department-issued cell phones from January 1, 2008, to January 1, 2011, including, any relevant policy regarding department-issued cell phones and cell phone reimbursement; and

- 6) Number of department-issued personal cars for take-home use from January 1, 2008, to January 1, 2011, including, any relevant policy regarding department-issued cars and mileage reimbursement.

A copy of your request is enclosed. Pursuant to RTKL Section 67.902(b)(2) and 1 Pa. C.S. § 1908, you were notified by letter dated May 10, 2011, that PSP required additional time to evaluate your request further and prepare this final response. Thereafter, Deputy Agency Open Records Officer (AORO) Jonathan Leader emailed you on May 23, 2011, for clarification, in which, no clarification was received. Therefore, in order to comply with statutorily-mandated deadlines, PSP is required to issue this response without further clarification.

Part 1) of your request is respectfully denied as insufficiently specific. RTKL requires that a request for records be made with "*sufficient specificity to enable the agency to ascertain which records*" are being requested. 65 P.S. § 67.703; *Kantrowitz v. Great Valley School District*, OOR Dkt N° AP 2009-0646; and *Mollick v. Methacton School District*, OOR Dkt N° AP 2009-0180. See the enclosed verification in support of the assertions provided in this response.

To be clear, PSP requires more clarification on the term "records," as described in your request, including what types of records you want and whether they should include all personnel or just enlisted members. If you are able to describe your request more specifically, you are urged to submit a new request.

Nevertheless and without waiving the applicability of insufficiency, PSP attempted to construe your request as specifically as possible. As a result, PSP generated a list of all enlisted personnel that made over \$50,000 in 2008 (119 pages), 2009 (135 pages), and 2010 (141 pages). The record for each year lists 1) the enlisted members rank; 2) the employee's job title; and 3) the amount of money made by each person. Accordingly, these records are publicly accessible under the RTKL. A one-page sample of the granted public record (marked PSP/RTKL.000001) is enclosed. Should you wish to obtain copies of the records identified above, please follow the instructions provided in the enclosed invoice.

Part 2) of your request is also denied as insufficiently specific for the reasons provided above. Additionally, PSP does not have any members designated by the ranks of Captain Detective, Deputy Superintendent, Superintendent, or Superintendent in Chief. Therefore, PSP does not have any records in its possession, under its custody, or in its control, that respond to this part of your request. See the enclosed verification in support of this assertion.

Nevertheless and without waiving the applicability of insufficiency, PSP attempted to construe your request as specifically as possible. By doing so, PSP identified and gathered records of all enlisted members with the rank of Captain and Commissioner for 2008, 2009, and 2010. This information is included within the information gathered in response to **Part 1)** of your request, which was addressed above.

Part 3) of your request is also denied as insufficiently specific. See the enclosed verification. To be clear, PSP requires more clarification on the term "benefits," as described in your request. For example, specific benefit information, such as: medical; supplementary; dental; vision; prescription; retirement; life; workers compensation; unemployment; family

member information; and if you seek this information itemized for individuals or the general overall costs per position type in a summary format. Should you have additional information that is more specific, you are urged to submit a new request.

Part 4) of your request is also denied as insufficiently specific insofar as PSP cannot understand what records you seek. Unfortunately, the example provided in the request does not make logical sense. See *also*, the enclosed verification. Nevertheless and without waiving the applicability of insufficiency, PSP attempted to construe your request as specifically as possible and in doing so; PSP construed your request to seek:

- 1) A list of all individuals that retired during a given year; and
- 2) The corresponding amount of overtime paid in that year, to that individual.

Please be advised, PSP does not have any records in its possession, custody, or control, which respond to this part of your request. See *also*, the enclosed verification. Pursuant to the Office of Open Records (OOR) decision in, *Jenkins vs. Pennsylvania Department of State*, OOR Dkt. AP 2009-065, the OOR appeals officer (Lefkowitz) noted that, "*It is not a denial of access when an agency does not possess records and [there is no] legal obligation to obtain them (see, e.g. section 67.506 (d)(1)).*"

As to **Part 5) of your request**, PSP does not have any responsive records in its possession, custody, or control evidencing the total "*number of Department-issued cell phones*," as described in your request. See *also*, the enclosed verification. However, being ever mindful of the principles embodied by the RTKL, and as a courtesy to you, PSP is responding outside the RTKL by calculating the information as follows:

- 2008: 1,101 department-issued cell phones;
- 2009: 1,034 department-issued cell phones;
- 2010: 726 department-issued cell phones; and
- 2011: 747 department-issued cell phones.

As to **the Department's policy regarding cell phones**, your request is granted. The responsive six-page record is Chapter 16 of Operations Manual (OM) 7-8, entitled "Wireless Devices." Should you wish to obtain the granted "records of policy for cell phones" (marked PSP/RTKL.000396 – PSP/RTKL.000401) please refer to the enclosed invoice.

As to **Part 6) of your request**, the Department does not issue "*personal cars for take-home use*," as described in your request. As a result, PSP has no responsive records in its possession, custody, or control. See *also*, the enclosed verification.

With regard to **the Department's policy regarding Department-issued cars**, your request is granted. A responsive eight-page record is Chapter 4 of OM 7-10, entitled "Vehicle Distribution Guidelines," and a responsive thirty-page record is Chapter 6 of OM 7-17, entitled "Travel and Subsistence." Should you wish to obtain the granted "records of policy for vehicles and mileage" (marked PSP/RTKL.000402–PSP/RTKL.000439) refer to the enclosed invoice.

Moreover, to the extent that your request seeks or may be construed to seek PSP records involving covert law enforcement investigations, including, intelligence gathering and analysis, PSP can neither confirm, nor deny the existence of such records without risk of compromising investigations and imperiling individuals. Under no circumstances, therefore, should this Final Response be interpreted as indicating otherwise. In all events, should such records exist, they are entirely exempt from public disclosure under the RTKL and Criminal History Record Information Act (CHRIA), 18 Pa. C.S. §§ 9101-9183.

In closing, you have a right to appeal this response in writing to, Terry Mutchler, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, Pennsylvania 17120. The pertinent OOR appeal form is available for your use at, <https://www.dced.state.pa.us/public/oor/appealformgeneral.pdf>. If you choose to appeal, you must do so within 15 business days of the mailing date of this response, and send to the OOR: 1) this response; 2) your request; 3) the reason or reasons why you think PSP wrongfully denied your access to the requested records. (*a statement identifying any flaws in the reasons provided above as to why a requester is not subject to access the requested records under the RTKL*). If you have any questions, please feel free to contact our office at the telephone number listed below.

Sincerely yours,



Jonathan W. Leader
Deputy Agency Open Records Officer
Pennsylvania State Police
Bureau of Records & Identification
Right-to-Know Office
1800 Elmerton Avenue
Harrisburg, Pennsylvania 17110
1.877.785.7771 (Main)
717.525.5795 (Fax)

Enclosures: PSP/ RTK Request N° 2011-0202
Leader Verification
Sample of granted public records, PSP/RTKL.000001
Itemized Invoice

PENNSYLVANIA STATE POLICE
BUREAU OF RECORDS & IDENTIFICATION
RIGHT-TO-KNOW OFFICE

VERIFICATION OF
JONATHAN W. LEADER
DEPUTY AGENCY OPEN RECORDS OFFICER

I, Jonathan W. Leader, Deputy Agency Open Records Officer (AORO) of the Pennsylvania State Police (PSP), am authorized to prepare this verification in response to this Right-to-Know Law (RTKL) Request for PSP records. Accordingly, on this 10th day of June 2011, I verify the following facts to be true and correct, to the best of my knowledge or information, and belief:

- 1) I am familiar with PSP/RTK Request N° 2011-0202, a copy of which accompanies this verification.
- 2) From the information provided, I determined this RTKL request is extremely insufficiently specific, as it fails to provide sufficient facts to determined:
 - a) The specific records being sought;
 - b) The specific data being sought, and for which employees (i.e. enlisted members, non-enlisted personnel, etc...), and thus, the request is overly broad, as it could encompass multiple records involving numerous subjects, thus rendering PSP incapable of a full and complete response;
 - c) Unless EVERY record in its possession is examined, PSP remains unable to confirm whether ALL potentially responsive records have been located;
 - d) PSP cannot identify the specific records being sought, because the request, as described, essentially requires a search of all PSP record indices; and
 - e) The PSP does not compile or maintain its records as described in this RTKL Request.

- 3) Nevertheless, attempting to construe the request as specifically as possible, I determined PSP does not have any members designated by the ranks of Captain Detective, Deputy Superintendent, Superintendent, or Superintendent in Chief.
- 4) Furthermore, attempting to construe the request as specifically as possible, I determined PSP does not have any records in its possession, under its custody, or in its control that respond to Part 4), Part 5), and Part 6) of the request.

I understand false statements made in this verification are subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.



Jonathan W. Leader
Deputy Agency Open Records Officer
Pennsylvania State Police